

QA-27939



# North Dakota Department of Transportation

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## COMMENTS ON DOCKET NO. FHWA-97-2759 - 27

The North Dakota Department of Transportation is taking this opportunity to comment on the Advanced Notice of Proposed Rulemaking found at Docket No. FHWA-97-2759. Comments have been requested on the current English language requirement for commercial drivers.

We will first address the five specific questions in the ANPRM and then make brief additional comments. First, are our comments on the specific questions, by number, without repeating the question:

- 1) The inability of commercial applicants to speak the English language has occasionally resulted in us not being able to administer the pretrip inspection and road/skill test. Safety concerns were raised as to whether or not the driver had sufficient pretrip inspection knowledge or the examiners were unknowingly "coaching" the driver through the process in an effort to communicate. There have been instances of failed pretrips because the driver did not know how to perform an airbrake check. Attempts to explain the procedure were to no avail and the driver returned only to fail again.
- 2) North Dakota's commercial tests are in English only. This requirement was established prior to the federal Motor Carrier Safety Regulations and had no connection with compliance with the regulations. English is now the official language of North Dakota by statute.

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- 3) Because the knowledge tests are in English only, violations of Section 391.11(b)(2) have not occurred. The driver demonstrates English proficiency during the testing process. By the time he or she completes the process and obtains the commercial license, language no longer poses a problem.
- 4) There are no known cases in North Dakota of out-of-service orders based on the inability to read or speak English.
- 5) Currently, the testing process is the measuring stick. By utilizing English only knowledge tests, there have been few incidents described in question one. If questions do arise such as in question one, the driver knows he or she must become more proficient in the English language to pass the pretrip inspection and road/skill test.

The English proficiency determination (test) needs to be a first step in the CDL process. We need to be concerned with safety during the testing process, as well as after the license has been issued. Determining English proficiency "upfront" will identify language related safety issues that would otherwise arise "over-the-road." The language in 49 CFR 391.11(b)(2) should be left as is and allow the individual states to determine English proficiency.

This is a matter of common sense and safety, not civil rights. Do not impose any more burdens on the states. The program is now working--don't change it!



KEITH C. MAGNUSSON - DRIVER AND VEHICLE SERVICES

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